



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

271 Cadman Plaza East
Brooklyn, New York 11201

August 19, 2010

By electronic and overnight mail

Robert L. Howe, Esq.
251 86th Street
Brooklyn, NY 11209

Re: NYCTL 1999-1 TRUST v. Calleia Bros.,
Inc., et al., Index No. 9975-00

Dear Mr. Howe:

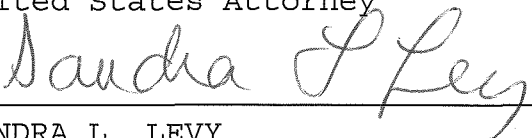
On July 13, 2010, Justice Debra Silber ordered that, after deduction of statutory fees and commissions, the surplus monies in the above-referenced action should be distributed as follows: (1) \$500.00 to you, and (2) all the remaining balance of the surplus monies, and any accrued interest thereon, to the United States of America. (Copy enclosed.) This Order was entered by the Kings County Clerk on August 16, 2010. The United States is now prepared to submit a request to the New York City Department of Finance to distribute the funds.

The application to the Commissioner of Finance must be signed by all claimants, meaning both you and the United States. I am therefore enclosing a copy of the form to be submitted. You are to sign one of the boxes for "signature of claimant" at the top of page 3, and have your signature notarized at the bottom of the page. Enclosed is a Federal Express envelope for your convenience in returning the form as soon as possible. Please feel free to contact paralegal Jill Merenda at 718-254-6088 if you have any questions.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By:


SANDRA L. LEVY
Assistant United States Attorney
(718) 254-6014

Enclosure



NYC DEPARTMENT OF FINANCE • TREASURY DIVISION

**APPLICATION TO THE COMMISSIONER OF FINANCE
OF THE CITY OF NEW YORK
FOR CERTIFICATE OF DEPOSIT**

Mail to: NYC Department of Finance, Treasury Division, Client Services, 1 Centre Street, Room 2200, New York, NY 10007

Instructions: Please complete, notarize and mail this application to the address above. See General Instructions on page 4.

Certificate Date: 11/21/06 Certificate Number: 79018 Account Number: K149837 Amount: \$ 1,315,451.21

DO NOT WRITE ABOVE THIS LINE

SECTION A. COURT AND CASE INFORMATION

1. List name of court and county Supreme Kings
COURT COUNTY
2. Index no.: 9975 Year: 2000
3. Name of Case: NYCTL 1999 Trust vs. Calleia Bros, Inc., et al.
4. Nature of fund: Surplus monies generated by foreclosure sale
5. Please take notice that we are the claimant and his attorney retained to petition the Court for an order directing the Commissioner of Finance or the Department of Finance to pay the above fund, wholly or in part.
6. Such fund was deposited by the order of the Supreme Court, County Kings
dated the 7th day of August Year 2006, or by the _____ Court,
County _____ under Certificate number _____ dated the _____ day of _____, Year _____.

SECTION B. CLAIMANT INFORMATION

1. List claimant's name: United States of America
FIRST NAME LAST NAME
2. Indicate claimant's country of citizenship: USA
3. Indicate claimant's employer and business address: U.S. Attorney's Office, EDNY
NAME OF EMPLOYER
271 Cadman Plaza East Brooklyn NY 11201
NUMBER AND STREET CITY STATE ZIP CODE
4. Names and addresses of payees other than claimant are (list all that apply):
- a. Robert L. Howe, Esq. 251 86th Street Brooklyn NY 11209
NAME ADDRESS CITY STATE ZIP CODE
- b. _____
NAME ADDRESS CITY STATE ZIP CODE
- c. _____
NAME ADDRESS CITY STATE ZIP CODE
5. Claimant was incorporated in the State of _____, County of _____
- Was corporation dissolved? ☐ YES ☐ NO If "YES" give date: _____/_____/_____
Actively engaged in business? ☐ YES ☐ NO

6. Indicate the name of the attorney of record in the action or proceeding in which the deposit was made is:

Sandra
FIRST NAMELevy
LAST NAME

7. Has the fund been assigned, pledged or encumbered?

☐ YES☒ NO

8. If the fund claimed by, or through a person who has been in bankruptcy or in any insolvency proceedings, deceased, or a citizen or subject of a foreign country?

☐ YES☒ NO

9. Indicate how claimant or attorney learned about the funds:

Referee's Report of Sale10. What is your relationship to the claim?
(choose one)☐ Tenant☐ Landlord☒ Attorney☐ Relative☐ Creditor☐ Other. Please list: _____

11. a) If fund was deposited for benefit of an infant, indicate age: _____

YEARS OLD

and date of birth: _____

MONTH

DAY

YEAR

b) Entire fund ☒ IS ☐ IS NOT to be withdrawn.

c) Dates and amounts of prior withdrawals:

1. _____ / _____ / _____
DATE AMOUNT2. _____ / _____ / _____
DATE AMOUNT3. _____ / _____ / _____
DATE AMOUNT4. _____ / _____ / _____
DATE AMOUNT

SIGNATURE OF CLAIMANT

SIGNATURE OF INFANT (IF OVER 14 YEARS)

FIRM NAME (PLEASE PRINT)

TITLE

RESIDENCE ADDRESS

CITY, STATE, ZIP CODE

SIGNATURE OF ATTORNEY

U.S. Attorney's Office, E.D.N.Y.
271 Cadman Plaza East
Brooklyn, New York 11201
OFFICE ADDRESS
CITY, STATE, ZIP CODE

INDIVIDUAL CLAIMANT CERTIFICATION

ALL SIGNATURES MUST BE ACKNOWLEDGED BEFORE PRESENTATION

STATE OF _____ } ss.
COUNTY OF _____

On this _____ day of _____, 20_____, before me, the undersigned personally appeared _____, and _____

and _____, personally known to me, or proved to me on the basis of satisfactory evidence to be the individual(s) whose name (s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature (s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

SIGNATURE OF INDIVIDUAL TAKING ACKNOWLEDGEMENT

CLAIMANT IDENTIFIED BY: _____

OFFICE OF INDIVIDUAL TAKING ACKNOWLEDGEMENT

NOTE: the bank will not pay checks issued pursuant to court order in this matter, unless endorsed by the payee in person. Endorsements by another, even under power of attorney, will not be accepted unless the Court in the order directing payment approves the power of attorney. Therefore, if the payee is not available to endorse the check, have the order provide for payment to a named attorney-in-fact.

See page 4 for instructions, corporate acknowledgement and provision for signatures of other claimants.

SIGNATURE OF CLAIMANT	SIGNATURE OF CLAIMANT	SIGNATURE OF CLAIMANT
TITLE	TITLE	TITLE
RESIDENCE ADDRESS	RESIDENCE ADDRESS	RESIDENCE ADDRESS
CITY, STATE, ZIP CODE	CITY, STATE, ZIP CODE	CITY, STATE, ZIP CODE

CORPORATE CERTIFICATION

ALL SIGNATURES MUST BE ACKNOWLEDGED BEFORE PRESENTATION

STATE OF _____ }
COUNTY OF _____ } ss.

On this _____ day of _____, 20_____, before me, the undersigned personally appeared _____, and _____

and _____, personally known to me, or proved to me on the basis of satisfactory evidence to be the individual(s) whose name (s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature (s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

SIGNATURE OF INDIVIDUAL TAKING ACKNOWLEDGEMENT

OFFICE OF INDIVIDUAL TAKING ACKNOWLEDGEMENT

NOTE: Corporate seal must be affixed

FOR OFFICIAL USE ONLY. DO NOT WRITE BELOW THIS LINE.

Approved by: _____

Date: _____/_____/_____

GENERAL INSTRUCTIONS

1. Original copy of this Application for Certificate of Deposit are to be filed in Room 2200, Municipal Building, New York, NY 10007. ALL PROSPECTIVE PAYEES MUST SIGN AS CLAIMANTS. (See NOTE below regarding appearance of New York City residents).
2. A disinterested notary must take acknowledgements of all signatures, including attorney's signature. Certificate of notarial authenticity is required on all acknowledgements executed outside of the State of New York.
3. Letters of Administration, Letter of Testamentary, and Transfer Tax Waivers are to be filed with the application where title to the fund is in or through a deceased person.
4. When application for Certificate of Deposit is made by an attorney-in-fact or assignee, a copy of the power of attorney or assignment must be attached to this application.
5. On approval of application, the Certificate of Deposit will be issued at Room 2200, Municipal Building, New York, NY 10007 upon payment of the fee of \$1.00. (Section 8010, C.P.L.R.)
6. Copy of application must remain attached to the Certificate and BOTH must be annexed to the motion filed in Court.
7. One copy of order, certified by the clerk of the court, "which directs the Department of Finance or the Commissioner of Finance to pay to the specified person(s) the specified amount(s) plus accrued interest, if any, less lawful fees", must be delivered to Treasury Division / Client Services at Room 2200 WITH one copy of the petition, affidavit and/or stipulation, **pursuant to Rule 2607, Civil Practice Law & Rules.**

**NOTICE TO ATTORNEYS:
IF YOU DESIRE CHECK MAILED TO YOU,
PLEASE HAVE SUCH DIRECTIVE INCORPORATED IN COURT ORDER**

NOTE

Where a claimant is an individual or a partner (not a corporation), and a resident of the City of New York, appearance for purpose of personal identification is required before issuance of Certificate of Deposit by the Department of Finance's Client Services Unit. You must bring two forms of ID, one of which should be photo-ID. Some acceptable forms of identification are a valid NYS or out-of-state drivers license or non-driver ID, US passport, ATM bank/credit card, voter's registration card, employment ID, a NYC library card, or utility bill. Birth certificates and Social Security cards are not acceptable.

At I.A.S. Part 9 of the
Supreme Court of the State of
New York, held in and for the
County of Kings, at the Court
House on the 13 day of
~~August, 2009.~~ July, 2010

Present: Hon. D. Silber
Justice

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

- - - - -X
NYCTL 1999-1 TRUST and THE BANK OF
NEW YORK, as COLLATERAL AGENT and
CUSTODIAN FOR THE NYCTL 1999-1

ORDER

Index No.
9975-00

Plaintiff,

- against -

CALLEIA BROS., INC., BCF OIL REFINING
INC., ENVIRONICS/A DIVISION OF ENVAR
SERVICES INC., NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE,
NEW YORK CITY DEPARTMENT OF FINANCE,
THE PEOPLE OF THE STATE OF NEW YORK,
THE CITY OF NEW YORK,

Defendants.

- - - - -X

Upon the Report of Sale of Alan Drezin, Esq., Referee,
made in this action, filed with the Office of the Clerk of the
County of Kings on August 1, 2006, by which Report it appears
that, after paying the amounts directed in and by the judgment in
this action to be paid out of the proceeds of the sale, there
remained a surplus in the sum of \$1,299,616.17; upon the
certificate of the Commissioner of Finance of the City of New
York dated November 21, 2006, showing that the surplus money has
been paid into the Court; upon the Notice of Hearing dated March

20, 2008; upon the Referee's Report and Affirmation of Determination of Priority of Claims, filed by Robert L. Howe, Esq. with the Court on or about November 19, 2008; upon the Notice of Motion dated August 5, 2009, and the Affirmation of Sandra L. Levy, duly affirmed on August 5, 2009, with exhibits annexed, with proof of service upon all of the parties entitled to notice; and upon all other papers and proceedings previously had in this action; and due deliberation having been had thereon;

NOW, upon the motion of Sandra L. Levy, Assistant United States Attorney, of counsel to Benton J. Campbell, United States Attorney for the Eastern District of New York, attorney for defendant/claimant United States of America, it is

* ORDERED that the said motion is granted without opposition; and it is further

ORDERED that the Report of said Referee, Robert L. Howe, Esq., be, and the same hereby are, in all respects ratified and confirmed, and it is further

ORDERED that upon being served with a certified copy of this Order with notice of entry, the Clerk of Kings County, the Commissioner of Finance of the City of New York or any other persons or agencies having possession of the subject surplus monies, after first deducting their fees and commissions allowed by law, shall pay out and distributed the said monies deposited by the Referee herein to the credit of this action as follows:

JSC {

- (1) to the Referee, Robert L. Howe, Esq., the sum of \$500,
as for his fees and services rendered as said Referee;
and
- (2) to the defendant/claimant United States, all the
remaining balance of said surplus monies and any
accrued interest thereon, pertaining to its claim on
behalf of the United States Environmental Protection
Agency, an agency of the United States.

ENTER,

db

J.S.C.

Hon. Debra Silber
Justice Supreme Court

ES S Q U L J A 000